

*Redited*

SENATE AGRICULTURE  
COMMITTEE NO. 2  
DATE 3-26-02  
CALL NO. SB38

Amendments to Senate Bill No. 38  
1st Reading Copy

Requested by Senator Verdell Jackson

For the Senate Agriculture, Livestock and Irrigation Committee

Prepared by Sue O'Connell  
March 26, 2009 (1:10pm)

1. Title, page 1, line 6 through line 7.  
**Following:** "STOCK;"  
**Strike:** "EXEMPTING SELLERS" on line 6 through "FEE PROVISIONS;"  
on line 7  
**Following:** "AMENDING" on line 7  
**Strike:** "SECTIONS 80-7-105 AND"  
**Insert:** "SECTION"
2. Page 1, line 12 through page 2, line 10.  
**Strike:** section 1 in its entirety  
**Renumber:** subsequent sections
3. Page 2, line 14 through line 15.  
**Following:** "a license" on line 14  
**Strike:** "for each location"  
**Following:** "department." on line 15  
**Insert:** "If the firm, nursery, or plant dealer sells or  
distributes nursery stock at more than one location, the  
firm, nursery, or plant dealer shall obtain:  
(a) one license if its combined annual gross sales are less  
than \$10,000; and  
(b) a license for each location if its gross annual sales  
are \$10,000 or more."
4. Page 2, line 25.  
**Strike:** "\$30"  
**Insert:** "\$60"
5. Page 2, line 26.  
**Following:** "\$3,000"  
**Strike:** "or more"  
**Insert:** "but less than \$10,000"
6. Page 2, line 27.  
**Strike:** "\$95"  
**Insert:** "\$150"
7. Page 2.  
**Following:** line 27  
**Insert:** "(d) A firm, nursery, or plant dealer that earns \$10,000

or more in gross annual sales of nursery stock shall pay a license fee of \$210."

**Renumber:** subsequent subsections

8. Page 3.

**Following:** line 7

**Insert:** "COORDINATION SECTION. **Section 2. Coordination**

**instruction.** (1) If House Bill No. 478 is not passed and approved, then [this act] is void.

(2) If both House Bill No. 478 and [this act] are passed and approved, then [section 1] of House Bill No. 478, amending 80-7-105, is void and 80-7-105 must be amended as follows:

**"80-7-105. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Firm" means an individual, company, partnership, association, or corporation.

(2) "Landscape service" means a firm that buys, sells, or resells nursery stock.

(3) "Nursery" means the business or location where nursery stock is grown or offered for sale or resale or as part of a landscape service.

(4) "Nursery stock" means botanically classified plants or parts of plants, including but not limited to tropical potted plants, aquatic plants, cut trees and their products, and turf or sod grass. The following plants and plant materials may not be considered nursery stock:

- (a) field crop plants and seeds;
- (b) pasture grasses;
- (c) cut plants not for propagation;
- (d) fruits or vegetables for human or animal consumption;
- (e) cut trees and products that are going to be processed to a point that they no longer represent a pest risk; and
- (f) plant debris for disposal or processing.

(5) "Nursery stock certification" means the process by which the nursery stock or other plants have been inspected and found to meet certification standards established by department rule.

(6) "Plant dealer" means a firm that buys plants or plant products from a producer for the purpose of offering the plants or plant products for sale or resale or as part of a landscape service.

(7) "Plant inspection certificate" means a document issued by the department or the plant pest regulatory agency of another state that declares that the nursery stock, plants, or plant material grown by the firm named on the certificate is apparently free of injurious plant pests.

(8) "Plant pest" means an insect, weed, fungus, virus, bacteria, or other organism that can directly or indirectly injure or cause damage in a plant or a product of a plant and that meets the criteria as a pest established by department rule.

For purposes of this chapter, noxious weeds, as defined in 7-22-2101(8)(a)(i), or other exotic weeds are defined as plant pests.

(9) "Small plant vendor" means a Montana firm that is engaged in the business of selling or distributing nursery stock, including coniferous Christmas decorations, and that:

(a) grows in Montana the nursery stock offered for sale or distribution; and

(b) has gross annual sales of less than \$1,000 in a calendar year."

{ Internal References to 80-7-105:  
80-7-135x } "

9. Page 3, line 9.

**Strike:** "July 1, 2009"

**Insert:** "on passage and approval"

- END -

Explanation - This set of amendments would accomplish several things:

1) Remove the language exempting coniferous Christmas decorations from the definition of nursery stock, but include coniferous Christmas decorations in the definition of small plant vendor should both SB 38 and HB 478 pass. (Amendment 2 and Amendment 8, the coordination instruction)

2) Retain the SB 38 exemption from licensing for a firm, nursery, or plant dealer that earns less than \$1,000 in gross annual sales of nursery stock, but set a tiered license fee schedule for other sellers. (Amendments 4 through 7) If HB 478 is amended to define small plant vendor as someone selling less than \$1,000 of stock a year, the exemption from licensing will be consistent.

3) Add a department-requested amendment changing the requirement for when licenses are needed for multiple locations. (Amendment 3)

4) Provide a coordination instruction that SB 38 is void if HB 478 doesn't pass, because the new fee structure is designed to offset the effects of exempting the businesses selling less than \$1,000 of stock a year. (Amendment 8)

5) Make SB 38 effective on passage and approval, to coordinate with effective date of HB 478.